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July 10, 2014

VIA ECF/ ELECTRONIC MAIL TO
bernstein.chambers@nysb.uscourts.gov

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408

Re: Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC, 08-1789 (SMB) (Substantively Consolidated); Picard v. JPMorgan Chase & Co., 10-4932 (SMB)

Dear Judge Bernstein:

We are counsel to Irving H. Picard, trustee (the “Trustee”) for the substantively consolidated liquidation proceedings of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.*, and the estate of Bernard L. Madoff. We write on behalf SPV Optimal SUS Ltd., (“SPV”) as successor in interest to Optimal Strategic U.S. Equity Ltd., Solus Recovery Fund, LP (“Solus”), as successor in interest to Optimal Arbitrage, Ltd. (collectively, the “Optimal Parties”), and the Trustee.

In accordance with your Honor’s Order of June 19, 2014, ECF No. 60, the parties filed briefs and supporting declarations on July 27, 2014. The parties will exchange pre-marked exhibits on or before July 23, 2014 and have identified Messrs. Richard Levin of Cravath, Swaine & Moore LLP and Marc Hirschfield of Baker & Hostetler LLP as witnesses. By agreement of the parties, no reply briefs will be filed unless directed by the Court.

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We write to propose the following procedures for the hearing to be held on July 30, 2014 at 2:00 pm, unless otherwise directed by the Court after review of the briefs and supporting materials filed on June 27, 2014. In lieu of direct testimony, the parties suggest relying on the declarations of Mr. Levin and Mr. Hirschfield. At the hearing, SPV will conduct a cross-examination of Mr. Hirschfield, followed by a cross-examination by the Trustee of Mr. Levin. Solus would like to reserve its rights to cross-examine Mr. Hirschfield on any topics not covered by SPV. The parties have agreed to limit cross-examination to thirty minutes per witness. The parties would like to have a brief recess, followed by oral argument. The parties anticipate that the hearing will be completed when the Court adjourns for the day.

We will await further direction as to how the Court wishes to proceed and are available to respond to any questions regarding the foregoing.

Respectfully submitted,

/s/ David J. Sheehan

David J. Sheehan

cc: Richard Levin
Gary Svirsky